

Dietary supplements could be classified as food or they could be classified as drugs if the products purport on the label to have medicinal qualities. In either event, they qualify for the reduced State rate of tax. 86 Ill. Adm. Code 130.310. (This is a GIL.)

September 24, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 2, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

This letter is in request of clarification on a sales tax issue concerning our business.

We are a company located in California and do not have an established operation in any other state. We sell products to independent distributors located throughout the U.S. The distributors purchase the products at a wholesale price but pay sales tax on the retail amount.

We have an independent distributor who is claiming that she should pay the 1.5% rate for the products in Lake County. She believes the products fall under the food or dietary supplements category. Will you clarify for us whether our products will qualify for this lower sales tax rate?

I have included a copy of our ingredients for your review. I would appreciate your feedback on this issue.

Please find enclosed a copy of 86 Ill. Adm. Code 130.310 regarding the appropriate tax rates for food, drugs, medicines and medical appliances. As you can see at Section 130.310(b)(1), "[a] food is any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice." Food for human consumption that is to be consumed off the premises where sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) is taxable at the low rate of 1% (plus applicable local taxes; we would need additional information to make the determination regarding local taxes applicable at your distributor's location). A medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal

qualities.” See Section 130.310(c)(1). These items are also taxed at the low 1% rate (plus applicable local taxes). Under the above stated definitions, dietary supplements could be classified as food or they could be classified as drugs if the products purport on the label to have medicinal qualities.

Products that do not meet the appropriate definitions of food, drugs, medicines and medical appliances, or are food prepared by the vendor for immediate consumption, are taxable at the higher State sales tax rate of 6.25% plus applicable local taxes.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.